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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,545	06/19/2006	Frank Morath	2979 0006US	1417
29894 7590 10/02/2008 DREISS, FUHLENDORF, STEIMLE & BECKER POSTFACH 10 37 62 D-70032 STUTTGART, GERMANY			EXAMINER AVERY, BRIDGET D	
			ART UNIT 3618	PAPER NUMBER
			MAIL DATE 10/02/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/583,545	<b>Applicant(s)</b> MORATH, FRANK	
	<b>Examiner</b> BRIDGET AVERY	<b>Art Unit</b> 3618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/19/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 19, 20, 28, 29 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. In claim 19, line 13, the recitation of "said gripping members cooperate or are proximate to each another in said second position" is indefinite because it is unclear what limitation applicant is seeking protection for "gripping members that cooperate" or "gripping members that are proximate each other in the second position". The phrase "each another" is confusing.
3. In claim 20, line 3, the recitation of "and/or in intermediate positions" is indefinite.
4. In claim 28, line 4, the recitation of "and/or perpendicular to said seating surfaces" is indefinite.
5. In claim 29, line 2, the recitation of "and/or said releasing element" is indefinite.
6. In claim 34, line 2, the recitation of "and/or axes of rotation thereof" is indefinite.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 19-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyagi (US Patent 6,367,823).

Miyagi teaches a walker including : a frame (32, 34); front wheels (31) mounted to said frame; rear wheels (33) mounted to said frame (32, 34); a first gripping member (35) mounted to said frame; and a second gripping member (35) mounted to said frame, wherein said first and said second gripping members (35) are disposed for displacing the walker in a walking direction, said first and second gripping members (35) being structured to assume a first position in which they are substantially parallel to said walking direction (as shown in Figure 2) and to pivot into a second position in which they are substantially transverse to said walking direction (as shown in Figure 1), wherein ends of said gripping members cooperate or are proximate to each other in said second position. The first and second gripping members can be locked by knob (124) in the first position and in the second position. Re claim 21, the gripping members have locking sections as shown in Figures 6A-6D. Re claim 22, see seating surfaces 122 and 127 in Figures 6C and 6D. Re claim 23, see the pivot axis (121) that is perpendicular in relation to the seating surfaces (122, 127). Re claim 24, see locking elements (114, 117) and the spring (121a). Re claim 26, Figure 6D shows the unlocked position with the locking receptacle (119) and the locking element displaced. Re claim 27, the knob (124) is the actuator that releases the locking elements. Re claim 28, see Figure 6A and the arrows for the rotation of the locking knob. Re claim 29, see the screw/bolt (123). Re claims 30 and 31, note the cams have a bevel shape as shown at

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(127) in Figures 6C and 6D and the complimentary shape of body (102). Re claim 32, the front wheels and the rear wheels are shown to be offset. Re claims 33 and 34, see Figure 2. Re claim 35, see displaced seat member (38) in Figure 2.

8. Claim 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Workman et al. (US Patent 6,343,802).

Workman et al. teaches a walker including : a frame (22, 23); front wheels (48) mounted to said frame (22, 23); rear wheels mounted to said frame (22, 23); a first gripping member (3, 37) mounted to said frame; and a second gripping member mounted to said frame, wherein said first and said second gripping members are disposed for displacing the walker in a walking direction, said first and second gripping members being structured to assume a first position in which they are substantially parallel to said walking direction and to pivot into a second position in which they are substantially transverse to said walking direction, wherein ends of said gripping members cooperate or are proximate to each other in said second position. See Figure 1. See also col. 11, lines 4-37.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyagi ('823) in view of Charlton (US Patent 6,966,470).

Miyagi lacks the teaching of a transport container.

Charlton teaches a transport container (10).

Based on the teachings of Charlton, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a transport container to the device taught by Miyagi for the convenience of the user.

10. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Workman et al. ('802) in view of Charlton (US Patent 6,966,470).

Workman et al. teaches the features described above.

Workman et al. lacks the teaching of a transport container.

Charlton teaches a transport container (10).

Based on the teachings of Charlton, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a transport container to the device taught by Workman et al. for the convenience of the user.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Webb shows a collapsible walker.

Lorman shows walkers.

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Mullholand shows a assistive walking device.

Schultz et al. shows a reversible walker device.

Hedges shows a walker.

Berges et al. shows an umbrella with an improved handle.

Rosenbaum shows a walker support tote bag.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIDGET AVERY whose telephone number is (571)272-6691. The examiner can normally be reached on Monday-Thursday from 8:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis, can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Christopher P Ellis/  
Supervisory Patent Examiner, Art  
Unit 3618

/Bridget Avery/

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